

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S2-26-12
Baltimore, Maryland 21244-1850



Center for Medicaid and State Operations

SMDL #07-009

August 9, 2007

Dear State Medicaid Director:

The purpose of this letter is to share with you the Centers for Medicare & Medicaid Services' (CMS) recently announced National Provider Identifier (NPI) Compliance Guidance and provide helpful background information as it applies to the State Medicaid agencies.

The Guidance was published on April 2, 2007, and can be viewed in full at:
http://www.cms.hhs.gov/NationalProvIdentStand/downloads/NPI_Contingency.pdf

BACKGROUND

By law, all covered entities must have been in compliance with the NPI provisions by May 23, 2007, except for small health plans, which must be in compliance by May 23, 2008. The NPI must be used by covered entities to identify providers on all transactions covered by the Health Insurance Portability and Accountability Act of 1996 (HIPAA) that require health care provider identifiers.

The Compliance Guidance, as announced by CMS, states that during the 12-month-period immediately following May 23, 2007, CMS will not impose civil money penalties on covered entities that have made good faith efforts to become compliant and deploy contingency plans.

The CMS made the decision to announce this guidance on its enforcement approach after it became apparent that many covered entities would not be able to fully comply with the NPI standard by May 23, 2007. State Medicaid Agencies that choose to implement a contingency plan must determine the specifics of their contingency plans in keeping with the CMS Contingency Guidance. The Guidance is clear that contingency plans may not extend beyond May 23, 2008, but entities may elect to end their contingency plans sooner than that date. State Medicaid agencies should check the CMS NPI Web site frequently to ensure they have the most current information and should review the Frequently Asked Questions pertaining to the Contingency Guidance. The Web site can be viewed at:
<http://www.cms.hhs.gov/NationalProvIdentStand/>.

ACHIEVING COMPLIANCE

As with previous HIPAA rules, we recognize that all States are facing severe fiscal constraints. It is critically important that you make reasonable and diligent efforts to achieve HIPAA NPI compliance. Enhanced funding at the 90 percent Federal financial participation level for many

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of the Medicaid Management Information Systems related to HIPAA NPI remediation activities is available for this effort.

Within 1 month of receipt of this letter, we request that State Medicaid agencies that implement NPI contingency plans notify CMS of their deployment to ensure that eligible individuals and families receive the Medicaid services to which they are entitled and that payment to providers is uninterrupted. Further guidance can be found in the enclosure to this letter.

Note that the Medicare Fee-for-Service health plan has announced its contingency plan, and documents are available at this CMS Web address:

<http://www.cms.hhs.gov/MLNMattersArticles/downloads/MM5595.pdf>.

On May 30, 2007, CMS published the National Plan and Provider Enumeration System (NPPES) Data Dissemination Notice in the *Federal Register*. Notice is available on the CMS NPI Web site at: <http://www.cms.hhs.gov/NationalProvIdentStand/Downloads/DataDisseminationNPI.pdf>

I appreciate the attention you have given to addressing this effort and in making the transition a successful one.

Sincerely,

/s/

Dennis G. Smith
Director

Enclosure

cc:

CMS Regional Administrators

CMS Associate Regional Administrators,
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Martha Roherty
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ADDITIONAL NATIONAL PROVIDER IDENTIFIER (NPI) GUIDANCE

1. State Medicaid Programs Should Adopt an NPI Contingency Plan

The guidance indicates that for a 12-month period after the compliance date (i.e., through May 23, 2008), CMS will not impose penalties on covered entities that deploy contingency plans (in order to ensure the smooth flow of payments) if they have made, and are making, reasonable and diligent efforts to become compliant, and in the case of health plans (that are not small health plans), in order to facilitate the compliance of their trading partners.

Please ensure that the State Medicaid Program adopts an NPI contingency plan. Documentation of good faith efforts to come into compliance will be required in the event a complaint is filed.

2. Medicare Coordination of Benefits Agreement (COBA)

CMS wants to ensure that the Medicare Coordination of Benefit claims are promptly paid so that providers can continue to provide services to the dually eligible Medicaid and Medicare beneficiaries. Based on the Compliance Guidance for HIPAA NPI, the Medicare COBA contractor sent the following information to all of its trading partners the first week of April 2007:

“Medicare Coordination of Benefit (COB) transactions will continue to include the legacy provider identifier (number) until May 23, 2008 where the provider has submitted a legacy number. The NPI will also be included on the COB transaction if submitted for Medicare claims processing, along with the legacy number. If only the NPI is submitted for Medicare claims processing, the COB transaction will also include the legacy number for the associated Billing, Pay-to, or Rendering providers. For other providers, e.g. referring provider or prescribing, if only the NPI is submitted for Medicare Claims Processing, the COB transaction will include only the NPI.”

This information is essential to the State as it develops its own NPI contingency strategy. The Medicare COB claims will continue to be populated with non-NPIs after May 23, 2007, and until the May 23, 2008, deadline, and if the State does not take this information into consideration its claims editing program could deny most Medicare COB claims.

3. Disclosure of NPIs to Other Covered Entities

Responses to questions regarding whether or not an NPI is required to identify ordering, referring, prescribing, attending, supervising, or other type of providers can be found at CMS' Web site for Frequently Asked Questions: <http://www.cms.hhs.gov/home/tools.asp>.

A response to this question is as follows:

FAQ 8201:

Another health care provider who does conduct HIPAA standard transactions (such as pharmacies, hospitals, group practices, laboratories, and many others) may need to identify you (the non-covered health care provider) as a rendering, ordering, referring, prescribing, attending, supervising, or other type of provider, in the claims they send to health plans. Many health plans, including Medicare, will require NPIs to be used to identify some or all of those other providers. In such situations, you (the non-covered health care provider) would need to have an NPI to give to these other providers.

One approach that the State Medicaid agency may want to consider to help covered health care providers obtain the ordering, referring, prescribing, attending, supervising, or other type of providers' NPI is to create directories and listings containing the NPIs of their providers. This will enable users of the directories to locate NPIs that they may need in order to create HIPAA-compliant transactions. CMS has developed guidance on this issue. You can view the guidance document, Disclosure of National Provider Identifiers (NPIs) by Health Care Industry Entities to Other Health Care Industry, at this CMS Web site:

<http://www.cms.hhs.gov/NationalProvIdentStand/Downloads/NPIdisclosures.pdf>.

4. How Can a Provider Document the Assignment of an NPI?

It has been reported that several State Medicaid agencies are not accepting the NPI notifications that are sent to providers from the Electronic File Interchange (EFI) organizations that had them enumerated through the EFI process. We understand that the issue that has caused the rejection of these NPIs is the lack of the taxonomy code. The three types of NPI notifications are explained in *FAQ 7880*. The response can be found on the CMS Frequently Asked Questions Web site: <http://www.cms.hhs.gov/home/tools.asp>.

Please share with your provider enrollment personnel the format for the three types of official notifications. Please make certain they are informed that the EFI notification will not contain the provider's taxonomy code and that they should accept the NPI.

5. CMS Guidance on Subpart Enumeration

As a reminder, the September 19, 2006, State Medicaid Director Letter on NPI advised that State Medicaid agencies, as with all other health plans, cannot dictate how providers enumerate subparts. Subpart determination is necessary to ensure that entities within a covered organization, that need to be uniquely identified in HIPAA standard transactions, obtain NPIs for that purpose, but that direction is provided by the provider organization, not the health plan. The Medicaid agency may want to develop a document similar to the "Medicare Expectations on Determination of Subparts by Medicare Organization Health Care Providers who are Covered Entities under HIPAA." Any State document may encourage, but may not require, subpart enumeration to mirror the Medicaid agency's provider enrollment and assignment of current legacy provider numbers. The CMS Web site for this document is:

<http://www.cms.hhs.gov/NationalProvIdentStand/Downloads/Medsubparts01252006.pdf>.

If contacted, the State Medicaid agency, or any State Medicaid agency representative, should remind callers that the NPI is for use on all HIPAA transactions, not only the HIPAA transactions they conduct with Medicaid. Callers should also be informed that Medicaid programs and other health plans cannot instruct providers on how to enumerate subparts. The callers should be referred to the authoritative documents and other resources on the CMS NPI Web site, identified on page one, to help make these decisions. More information and education on the NPI can be found at this CMS NPI Web site:
<http://www.cms.hhs.gov/NationalProvIdentStand/>.